

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cap having a label forming a covered end with a central opening in the covered end of the cap and cap engaging formations and sleeve engaging formations on the neck must be shown or the feature(s) canceled from the claim(s). See claim 18. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the engagement of partially shrunk areas **66** and **68** of the sleeve with the bead **58** of the cap **52** as described in the specification at page 18. Any structural detail that is essential for a proper

understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "first sleeve engaging formations" and "second sleeve engaging formations" as set forth in claim 18 and the cap having a label forming a covered end with a central opening in the covered end of the cap and cap engaging formations and sleeve engaging formations on the neck as set forth in claims 15 and 18.

Claim Rejections - 35 USC § 112

4. Claims 15, 16 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the bottle" in line 4. There is insufficient antecedent basis for this limitation in the claim since the container was not set forth as a bottle. It is noted a bottle neck and a bottle cap are set forth in the claim.

Claim 18 sets forth a neck in addition to the bottle neck of claim 1.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidding et al. (US 5,392,939) in view of Tedeschi, Jr. (US 5,904,266) and Kubitz (US 6,070,750).

Hidding discloses a closure arrangement for a container comprising a bottle cap (12) and a bottle neck (11), the bottle neck comprising an opening at an upper end of the neck; an exterior surface of the bottle having at least one cap engaging protrusion (21); the bottle cap comprising a label (26) on one end of said cap forming a covered end and an open opposite end, a central opening in said covered end, said label substantially closing said central opening, and a skirt (18) depending from the periphery of the closed end.

Hidding does not disclose a shrink sleeve, said sleeve covering at least a portion of the skirt of said cap and covering the peripheral portions of the covered end of the cap, whereby the sleeve covers at least a portion of the peripheral edges of the label to restrict access to edges of the label without first removing the sleeve, and said sleeve, together with said label, the bottle

cap being dimensioned to receive and engage said shrink sleeve after said shrink sleeve is brought into close-fitting contact with at least a portion of said cap; and said shrink sleeve containing coloring to signify the contents and/or the supply of said container.

Tedeschi teaches it is known to provide a cap engaging a container, a label on one end of a covered end of the cap and a shrink sleeve, said sleeve covering at least a portion of the skirt of said cap and covering the peripheral portions of the covered end of the cap, whereby the sleeve covers at least a portion of the peripheral edges of the label to restrict access to edges of the label without first removing the sleeve, and said sleeve, together with said label, the bottle cap being dimensioned to receive and engage said shrink sleeve after said shrink sleeve is brought into close-fitting contact with at least a portion of said cap. See Fig. 2 and column 4, lines 11-18.

Kubitz teaches it is known that shrink sleeves can be "transparent, or colored, or printed" (column 1, line 21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a shrink sleeve to the closure arrangement of Hidding as taught by Tedeschi to provide a tamper evident arrangement and to provide the shrinking sleeve with color as taught by Kubitz as a known alternative arrangement. Doing so provides tamper evidence and allows for signifying the contents and/or the supply of said container.

Regarding claim 16, Hidding discloses the claimed invention except for the neck is part of a blow molded bottle made of a material selected from the group consisting of HDPE, Polycarbonate and PET. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the bottle of a material selected from the group consisting of HDPE, Polycarbonate and PET, since it has been held to be within the general skill of a

worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

It is noted that the limitation of a blow molded bottle does not structurally limit the claimed container, therefore the claim is considered to be a product-by process claim. See MPEP 2113.

Regarding claim 18, the cap and neck of Hidding comprise sleeve engaging formations to the same degree as disclosed in the instant application.

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions

believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

10. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720/80 will be promptly forwarded to the examiner.

11. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday, Tuesday, Thursday, and Friday from 8:00 a.m. to 2:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC)

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at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

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